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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,655

12/20/2005

Graham R. Purkins

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32692 7590 12/28/2009
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EXAMINER

JACYNA, J CASIMER

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

12/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
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Office Action Summary	Application No. 10/561,655	Applicant(s) PURKINS, GRAHAM R.	
	Examiner J. Casimer Jacyna	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 9-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/7/2009.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 2, 5-8, and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. 5,772,085 in view of Neff 4,522,374. Bryant discloses the prior art metering valve with seals 16, 18 substantially as claimed but does not disclose a molded sleeve. However, Neff teaches another valve stem or spool having a rubber elastomeric sleeve as shown in figures 1 and 2 and disclosed in column 4, lines 8-27, with an overlying o-ring sealing element 68 for the purpose of improving the sealing properties of the valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve of Bryant with a rubber elastomeric sleeve and overlying sealing element as, for example, taught by Neff in order to improve the sealing properties of the valve.
4. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. 5,772,085 in view of Neff 4,522,374 as applied to claim 19 above and further in view of Bonningue et al. 2002/0020721. Bryant discloses an aerosol valve substantially as claimed but does not disclose the stem to be made of a thermoplastic polymer. However, Bonningue teaches another aerosol valve having the stem made from the thermoplastic polymer polypropylene as disclosed on paragraph 48, for the purpose of providing a specific and chemically inert material from which to manufacture

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the aerosol valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the aerosol valve of Bryant from a thermoplastic polymer such as polypropylene as, for example, taught by Bonningue, in order to provide a specific and chemically inert material from which to manufacture the aerosol valve.

5. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. 5,772,085 in view of Neff 4,522,374 as applied to claim 19 above and further in view of Hoelz et al. 6,739,333. Bryant discloses a medicinal aerosol inhaler substantially as claimed but does not disclose any specific propellant. However, Hoelz teaches another aerosol inhaler having the claimed propellant mixture as disclosed on column 5, lines 1-11, for the purpose of providing a specific propellant formulation that is suitable for use in inhalers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the inhaler of Bryant with a propellant as disclosed on column 5, lines 1-11, of Hoelz in order to provide a specific propellant formulation that is suitable for use in inhalers.

6. Applicant's arguments filed 9/22/2009 have been fully considered but they are not persuasive. Applicant contends that Neff is not an aerosol valve. This is correct, however, the base reference to Bryant is an aerosol valve and Neff contains a clear teaching of covering a valve with an elastomeric sleeve which teaching is applicable most valves including the aerosol valve of Bryant.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754